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C O N F I D E N T I A L SECTION 01 OF 03 KIEV 001314

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TAGS: [PGOV](#) [PHUM](#)

SUBJECT: UKRAINE: LOOKING TOWARD A RENEWED ORANGE COALITION  
AMID CALLS FOR A RECOUNT

REF: A. KIEV 1258

[1](#)B. KIEV 1261

Classified By: Political Counselor Aubrey Carlson, reason 1.4 (b,d)

[1](#)1. (C) Summary: Amid increasing signs that Ukraine might see a renewed Orange "Maidan" coalition in the wake of March 26 elections, there have been calls by some for a recount of the election results. Most of the pressure comes from a handful of parties that failed to reach the three-percent threshold for representation in the parliament (Verkhovna Rada), even though evidence supporting claims of miscounts mostly relates to provincial and local elections. However, Our Ukraine insider Petro Poroshenko has also endorsed the recount concept, perhaps as a means to delay or prevent the return of archrival Yuliya Tymoshenko to the PM's chair. Two non-binding resolutions, one calling for partial vote counts at PSCs where falsification has been alleged, and a second calling for a nation-wide recount, will be considered by the lame duck Rada April 4; Yushchenko has signaled his intent to address the Rada prior to consideration of the measures. The Rada will also swear in Constitutional Court judges nominated in November 2005 by the judiciary and Yushchenko, at long last giving the Court a quorum again. The Central Election Commission (CEC) expects to receive the remaining original protocols of polling station vote counts April 3; CEC Chair Davydovych suggested March 31 that official final results should be announced by April 10. Rada contacts predicted the first sitting of the new Rada would occur in early May, at which time efforts to elect a new Speaker and divide up committee chairs and assignments would begin, and the clock on the 30-day period to form a parliamentary majority would start. End summary.

No April Fools joke: a Maidan reunion in the works  
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[1](#)2. (U) In an April 1 radio address to the nation, President Yushchenko said that the next government coalition based on a Rada majority should be formed by the political forces which defended democracy on the Maidan during the Orange Revolution. The next steps, said Yushchenko, would be to sign an agreement on the coalition's policy objectives, and then a negotiated distribution of governmental posts. Yushchenko also called for all parties/blocs elected to the Rada to sign a "stability pact," in which the sides would agree on principles related to "the consolidation of the Ukrainian nation."

3, (C) Note: The Maidan parties that made it past the three-percent threshold are the Tymoshenko bloc (BYuT), Our Ukraine, and the Socialist Party (SPU). The three are projected to have 243 of 450 seats in the new Rada (129, 81, 33 seats, respectively). Tymoshenko's desire to return as PM is well-known; Moroz and the SPU have laid down a public claim for their share of all positions. Some of the Our Ukraine insiders forced from office in the September 2005 government reshuffle but still close to Yushchenko, particularly ex-National Security and Defense Council Secretary Petro Poroshenko, however, have been

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resisting/delaying a renewed alliance with Tymoshenko.

What next? Lame duck Rada consideration of recount  
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[1](#)4. (SBU) The next step in the post-election dance will come April 4, when the old Rada convenes one last time, with President Yushchenko expected to make an address. Two non-binding resolutions (postanova) -- not laws (zakon) -- calling for a recount are expected to be added to the docket. The first, proposed by Regions MP Komar, would authorize repeat vote counts at individual polling stations only. The second, proposed by two MPs from Rada Speaker Lytvyn's faction, which failed to make it into the Rada, plus Our Ukraine MP Karmazin, who ran his own splinter bloc (and lost), would require a nationwide vote count and prohibit the CEC from announcing final results until then. Neither resolution includes budgetary provisions or administrative guidelines for conducting a recount. (On a positive note, the limping Rada will also swear in Constitutional Court judges nominated by the judiciary and President Yushchenko in November 2005, finally giving the Court a quorum again. The

Rada still must nominate its own selections to the court.)

15. (SBU) Calls for a recount in the aftermath of a sporadically messy vote count, particularly for races at the local level, have been led by a handful of the 40 parties that failed to make it over the three-percent threshold into the national Rada: Natalya Vitrenko's People's Opposition bloc (2.93%), Speaker Lytvyn's bloc (2.43%), Kostenko-Plyushch's bloc (1.87%), Viche (1.71%), Pora-Reforms and Order (Pora-PRP - 1.47%), NeTak (1.01%), and the National Democratic Party (NDP - 0.49%). Citing a list of alleged falsifications and inaccuracies in preparation of the voting protocols, the minor parties have jointly called for a re-count. Some of the successful parties have also complained about incidents of alleged fraud, and in the March 31 edition "Svoboda Slova" ("Freedom of Speech," a popular TV show), Regions, the Socialists, and Our Ukraine's Petro Poroshenko said they would support recount resolutions to be considered by the Rada April 4.

16. (SBU) On the Svoboda Slova program, BYuT opposed the recount option, contending that the Verkhovna Rada vote was largely clean and accurate, with falsifications significantly affecting only local races, and that any action should be driven by court orders based on evidence of fraud committed. These positions were shared by CEC Chair Davydovych. Committee of Voters of Ukraine (CVU) chair Ihor Popov agreed in an April 3 press conference. Popov noted numerous violations during the vote count but said that they primarily affected local races, did not amount to documented proof of large-scale falsification, and should not invalidate the outcome of the election. Contributing factors to the messy vote count included complex and contradictory provisions in the two election laws (governing Rada and local elections), along with fatigue and inexperience among PSC members. Popov termed the Rada's recount resolutions political acts rather than necessary steps, and predicted the CEC would ignore any resolution passed.

17. (C) Comment: Petro Poroshenko, in supporting a recount, would be seeking to at least slow down the return of archrival Tymoshenko to the PM's chair. In addition to his public comments on "Svoboda Slova" March 31, he admitted as much in a recent meeting with the UK embassy, according to UK DCM Martin Harris (please protect). Yushchenko's publicly expressed sentiments on the issue also suggest he is not in a hurry to put the issue to rest and move forward. In his April 1 radio address, he said that while the March 26 election was conducted without massive fraud, at times local officials tried to alter the results in favor of some forces. Ukrainska Pravda reported that Yushchenko subsequently requested CEC Chair Davydovych to give careful consideration to the minor parties' request for a recount.

Next steps: Final announcement, Rada convening...

18. (SBU) Even if the Rada passes a non-binding resolution, the next formal step is for the CEC to declare the final Rada election results. While the CEC's website posted 100 percent of the results from the roughly 34,000 PSCs by March 30, those were based on electronic submissions from the 225 District Election Commissions (DECs), what CEC Chair Davydovych called an "official-informal parallel vote count" during "Svoboda Slova" March 31. The final results must be based on the original paper protocols with PSC commissioner signatures and stamps, the last of which arrived at the CEC April 3. Davydovych suggested on "Svoboda Slova" that he would announce the result of the count of the hardcopy vote protocols by April 10.

19. (SBU) Article 82 of the Constitution and Rada procedural rules passed March 16 mandate holding the first session of the new Rada within thirty days of the announcement of official results. Two Rada sources told us April 3 that they expected the new Rada to convene in early May.

110. (SBU) Rada Speaker Lytvyn's faction did not make it into the new Rada. Lytvyn's last act will be to make an "ex-speaker" report to the new Rada on the status of legislation. At the first session of the new Rada, a provisional presidium representing the five factions making it over the threshold (Regions, BYuT, Our Ukraine, SPU, Communists) will meet to agree on how to handle the first session, which will be opened by the eldest MP regardless of party, as long as there is a quorum of 300 MPs. (Note: We have heard rumors that Regions, with its 186 MPs, is considering boycotting the new Rada if it is not included in a majority coalition, and thus potentially bringing about new elections if the Rada is unable to perform its constitutionally-required tasks.)

111. (SBU) Among the tasks in the opening session are: election of a Speaker and two deputy speakers, along with Committee chairs and decisions on committee assignments. The elimination of single-mandate independents and reduction of

parties in the Rada to just five in 2006 could simplify matters; in 2002, it took two months for Lytvyn to be elected Speaker with the bare minimum 226-vote majority. A parliamentary majority must be formed within a month of the convening of the new parliament, or else risk presidential dismissal.

...and lawsuits

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¶12. (SBU) CVU's Popov noted in his April 3 press conference that it would be reasonable to expect lawsuits in the wake of the CEC's declaration of the Rada election results from parties failing to make it into the Rada. Given the lack of documented proof of falsifications, however, Popov predicted the courts would dismiss such lawsuits regarding the Rada results.

¶13. (SBU) The situation is different for local races, a number of which, particularly for mayor, are likely to be rerun in the coming weeks/months. The race for Simferopol mayor was already invalidated by the Crimean Territorial Election Commission (TEC) on election day (ref A), followed soon thereafter by Zhytomyr; another eight mayoral elections have been appealed in courts, which could delay final resolution for months. CVU's Popov noted an interesting trend: new faces won nearly two-thirds of all towns in Ukraine, including Kiev (ref B). Because of the "first past the post" system, many dark horse third candidates won after the top two candidates aggressively attacked each other.

¶14. (U) Visit Embassy Kiev's classified website at:  
[www.state.sgov.gov/p/eur/kiev](http://www.state.sgov.gov/p/eur/kiev).  
Herbst